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HOUSE BILL 912

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Jane E. Powdrell-Culbert

AN ACT

RELATING TO CORRECTIONS; REQUIRING CERTAIN INMATES WITHIN
TWELVE MONTHS OR LESS OF THEIR PROJECTED RELEASE DATE TO
PARTICIPATE IN TREATMENT PROGRAMS IN ORDER TO EARN MERITORIOUS
DEDUCTIONS; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-2-34 NMSA 1978 (being Laws 1999,
Chapter 238, Section 1) is amended to read:

"33-2-34. ELIGIBILITY FOR EARNED MERITORIOUS
DEDUCTIONS. - -

A. To earn meritorious deductions, a prisoner
confined in a correctional facility designated by the
corrections department must be an active participant in
programs recommended for the prisoner by the classification
committee and approved by the warden. Meritorious deductions

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1 shall not exceed the following amounts:

2 (1) for a prisoner confined for committing a
3 serious violent offense, up to a maximum of four days per month
4 of time served;

5 (2) for a prisoner confined for committing a
6 nonviolent offense, up to a maximum of thirty days per month of
7 time served;

8 (3) for a prisoner confined following
9 revocation of parole for the alleged commission of a new felony
10 offense or for absconding from parole, up to a maximum of four
11 days per month of time served during the parole term following
12 revocation; and

13 (4) for a prisoner confined following
14 revocation of parole for a reason other than the alleged
15 commission of a new felony offense or absconding from parole,
16 up to a maximum of eight days per month of time served during
17 the parole term following revocation.

18 B. A prisoner may earn meritorious deductions upon
19 recommendation by the classification committee, based upon the
20 prisoner's active participation in approved programs and the
21 quality of the prisoner's participation in those approved
22 programs. A prisoner may not earn meritorious deductions
23 unless the recommendation of the classification committee is
24 approved by the warden.

25 C. If a prisoner's active participation in approved

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1 programs is interrupted by a lockdown at a correctional
2 facility, he may continue to be awarded meritorious deductions
3 at the rate he was earning meritorious deductions prior to the
4 lockdown, unless the warden determines that the prisoner's
5 conduct contributed to the initiation or continuance of the
6 lockdown.

7 D. A prisoner confined in a correctional facility
8 designated by the corrections department is eligible for lump-
9 sum meritorious deductions as follows:

10 (1) for successfully completing an approved
11 vocational, substance abuse or mental health program, one
12 month; except when the prisoner has a demonstrable physical,
13 mental health or developmental disability that prevents the
14 prisoner from successfully earning a general education diploma,
15 in which case the prisoner shall be awarded three months;

16 (2) for earning a general education diploma,
17 three months;

18 (3) for earning an associate's degree, four
19 months;

20 (4) for earning a bachelor's degree, five
21 months;

22 (5) for earning a graduate qualification, five
23 months; and

24 (6) for engaging in a heroic act of saving
25 life or property, engaging in extraordinary conduct for the

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1 benefit of the state or the public that is at great expense,
2 risk or effort on behalf of the inmate, or engaging in
3 extraordinary conduct far in excess of normal program
4 assignments that demonstrates the prisoner's commitment to
5 rehabilitate himself. The classification committee and the
6 warden may recommend the number of days to be awarded in each
7 case based upon the particular merits but any award shall be
8 determined by the director of the adult institutions division
9 of the corrections department.

10 E. Lump-sum meritorious deductions, provided in
11 Paragraphs (1) through (6) of Subsection D of this section, may
12 be awarded in addition to the meritorious deductions provided
13 in Subsections A and B of this section. Lump-sum meritorious
14 deductions shall not exceed one year per award and shall not
15 exceed a total of one year for all lump-sum meritorious
16 deductions awarded in any consecutive twelve-month period.

17 F. A prisoner is not eligible to earn meritorious
18 deductions if the prisoner:

- 19 (1) disobeys an order to perform labor,
20 pursuant to Section 33-8-4 NMSA 1978;
21 (2) is in disciplinary segregation;
22 (3) is within the first sixty days of receipt
23 by the corrections department; [or]
24 (4) is not an active participant in programs
25 recommended and approved for him by the classification

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1 committee; or

2 (5) is within twelve months or less of his
3 projected release date and is not an active participant in:

4 (a) a drug abuse treatment program if
5 the prisoner's offense was drug-related;

6 (b) an alcohol abuse treatment program
7 if the prisoner's offense was alcohol-related; or

8 (c) a sex offender treatment program if
9 the prisoner's offense was a sex offense, as defined in the Sex
10 Offender Registration and Notification Act.

11 G. The provisions of this section shall not be
12 interpreted as providing eligibility to earn meritorious
13 deductions from a sentence of life imprisonment or a sentence
14 of death.

15 H. The corrections department shall promulgate
16 rules to implement the provisions of this section, and the
17 rules shall be matters of public record. A concise summary of
18 the rules shall be provided to each prisoner, and each prisoner
19 shall receive a quarterly statement of the meritorious
20 deductions earned.

21 I. A New Mexico prisoner confined in a federal or
22 out-of-state correctional facility is eligible to earn
23 meritorious deductions for active participation in programs on
24 the basis of the prisoner's conduct and program reports
25 furnished by that facility to the corrections department. All

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1 decisions regarding the award and forfeiture of meritorious
2 deductions at such facility are subject to final approval by
3 the director of the adult institutions division of the
4 corrections department or his designee.

5 J. In order to be eligible for meritorious
6 deductions, a prisoner confined in a federal or out-of-state
7 correctional facility designated by the corrections department
8 must actively participate in programs that are available. If a
9 federal or out-of-state correctional facility does not have
10 programs available for a prisoner, the prisoner may be awarded
11 meritorious deductions at the rate the prisoner could have
12 earned meritorious deductions if the prisoner had actively
13 participated in programs.

14 K. A prisoner confined in a correctional facility
15 in New Mexico that is operated by a private company, pursuant
16 to a contract with the corrections department, is eligible to
17 earn meritorious deductions in the same manner as a prisoner
18 confined in state-run correctional facilities. All decisions
19 regarding the award or forfeiture of meritorious deductions at
20 such facilities are subject to final approval by the director
21 of the adult institutions division of the corrections
22 department or his designee.

23 L. As used in this section:

24 (1) "active participant" means a prisoner who
25 has begun, and is regularly engaged in, approved programs;

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1 (2) "program" means work, vocational,
2 educational, substance abuse and mental health programs,
3 approved by the classification committee, that contribute to a
4 prisoner's self-betterment through the development of personal
5 and occupational skills. "Program" does not include
6 recreational activities;

7 (3) "nonviolent offense" means any offense
8 other than a serious violent offense; and

9 (4) "serious violent offense" means:

10 (a) second degree murder, as provided in
11 Section 30-2-1 NMSA 1978;

12 (b) voluntary manslaughter, as provided
13 in Section 30-2-3 NMSA 1978;

14 (c) third degree aggravated battery, as
15 provided in Section 30-3-5 NMSA 1978;

16 (d) first degree kidnapping, as provided
17 in Section 30-4-1 NMSA 1978;

18 (e) first and second degree criminal
19 sexual penetration, as provided in Section 30-9-11 NMSA 1978;

20 (f) third degree criminal sexual contact
21 of a minor, as provided in Section 30-9-13 NMSA 1978;

22 (g) first and second degree robbery, as
23 provided in Section 30-16-2 NMSA 1978;

24 (h) second degree aggravated arson, as
25 provided in Section 30-17-6 NMSA 1978;

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1 (i) shooting at a dwelling or occupied
2 building, as provided in Section 30-3-8 NMSA 1978;

3 (j) shooting at or from a motor vehicle,
4 as provided in Section 30-3-8 NMSA 1978;

5 (k) aggravated battery upon a peace
6 officer, as provided in Section 30-22-25 NMSA 1978;

7 (l) assault with intent to commit a
8 violent felony upon a peace officer, as provided in Section 30-
9 22-23 NMSA 1978;

10 (m) aggravated assault upon a peace
11 officer, as provided in Section 30-22-22 NMSA 1978; and

12 (n) any of the following offenses, when
13 the nature of the offense and the resulting harm are such that
14 the court judges the crime to be a serious violent offense for
15 the purpose of this section: 1) involuntary manslaughter, as
16 provided in Section 30-2-3 NMSA 1978; 2) fourth degree
17 aggravated assault, as provided in Section 30-3-2 NMSA 1978; 3)
18 third degree assault with intent to commit a violent felony, as
19 provided in Section 30-3-3 NMSA 1978; 4) third and fourth
20 degree aggravated stalking, as provided in Section 30-3A-3.1
21 NMSA 1978; 5) second degree kidnapping, as provided in Section
22 30-4-1 NMSA 1978; 6) second degree abandonment of a child, as
23 provided in Section 30-6-1 NMSA 1978; 7) first, second and
24 third degree abuse of a child, as provided in Section 30-6-1
25 NMSA 1978; 8) third degree dangerous use of explosives, as

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1 provided in Section 30-7-5 NMSA 1978; 9) third and fourth
2 degree criminal sexual penetration, as provided in Section 30-
3 9-11 NMSA 1978; 10) fourth degree criminal sexual contact of a
4 minor, as provided in Section 30-9-13 NMSA 1978; 11) third
5 degree robbery, as provided in Section 30-16-2 NMSA 1978; 12)
6 third degree homicide by vehicle or great bodily injury by
7 vehicle, as provided in Section 66-8-101 NMSA 1978; and 13)
8 battery upon a peace officer, as provided in Section 30-22-24
9 NMSA 1978. "

10 Section 2. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 2003.

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